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E.O. 12958: DECL: 01/15/2024
TAGS: [KNNP](#) [JO](#)
SUBJECT: UPDATES TO JORDAN 123 AGREEMENT

REF: A. STATE 120737
[1](#)B. AMMAN 003336

Classified By: NEA DAS HALE, reasons 1.4(b),(d),(e)

[1](#)1. (U) This is an action request. Please see paragraphs 3-8.

Summary

[1](#)2. (C) Washington looks forward to finalizing the text of the proposed U.S.-Jordan nuclear cooperation agreement, agreed ad ref in February 2008, and preparing it for signature as soon as appropriate. As noted in ref A, we anticipate this agreement will be subject to intense Congressional scrutiny after the President submits it for review. This view was recently reinforced by Congressional concerns raised about the nuclear cooperation agreement negotiated with the UAE. Subsequently, after additional discussions between the UAE and the United States, certain revisions were made to the draft U.S.-UAE Agreement regarding the consequences, under that Agreement, of domestic enrichment and reprocessing by the UAE. As a result, Washington has concluded that the ad ref text of the proposed U.S.-Jordan agreement should also be modified to avoid concerns similar to those raised for the U.S.-UAE agreement. Post is requested to: 1) inform the GOJ of the changes that we request be made to the draft U.S.-Jordan nuclear cooperation agreement per this development, as well as certain technical revisions that we are seeking; and 2) inquire about the status of the letter of nonproliferation assurances requested in ref A. (NOTE: If GOJ requests copy of U.S.-UAE Agreement, Embassy may respond that if UAE concurs, we are prepared to provide a copy in strict confidence, since such agreements are normally not made public until after they have been submitted to Congress for review.)

Changes to Draft U.S.-Jordan 123 Agreement

[1](#)3. (C/REL JORDAN) Post should advise Jordan of our need to reopen the negotiations on the text of the previously negotiated agreement to address concerns we expect to be raised in Congress, based on reaction to the proposed U.S.-UAE nuclear cooperation agreement. We are providing this update to post as a courtesy in light of developments with the U.S.-UAE agreement; post should decide the appropriate timing for re-engaging with the GOJ on this topic. The United States and the UAE revised the proposed U.S.-UAE agreement in light of Congressional concerns, and Washington believes that similar changes should be made to the U.S.-Jordan agreement. Specifically, these changes would provide the United States with certain explicit rights under the Agreement in the event that Jordan engages in activities contrary to its stated intent not to reprocess or enrich nuclear material indigenously. The proposed modification to Article 12 of the agreement is in paragraph 5. Post should

stress that these changes should not have any negative impact on U.S.-Jordan nuclear cooperation so long as Jordan maintains its stated intent to rely on existing international markets for nuclear fuel services as an alternative to the pursuit of enrichment and reprocessing. They do, however, reemphasize the importance the U.S. places on this course of conduct as part of the basis of U.S.-Jordan nuclear cooperation.

14. (C/REL JORDAN) Post should also propose a modification to Article 11 in an effort to seek further clarification. The proposed modification to Article 11 is in paragraph 9. Upon review of the ad referendum text, we believe that it is more appropriate to link exercise of an NPT Party's inalienable right under Article IV of the NPT specifically to conformity with Article III of the NPT (regarding safeguards) than with the broader reference to the IAEA Statute, which includes a number of provisions not applicable to NPT Article IV, such as those relating to governance of the IAEA. This is essentially a technical change, which we believe achieves the objectives of Jordan's original proposal for Article 11 while more clearly referring to safeguards obligations. A similar approach is taken in the U.S.-UAE Agreement.

15. (C/REL JORDAN) In addition, Post should propose modifications to Article 9 and to the section of the Agreed Minute entitled "Safeguards". The proposed modifications are in paragraphs 10, 11 and 12. The purpose of these modifications is to address the Small Quantities Protocol to Jordan's IAEA Safeguards Agreement, and to ensure that it has been terminated before licensing by the United States of exports to Jordan of nuclear material, equipment, components or technology pursuant to the Agreement.

16. (C/REL JORDAN) BEGIN CURRENT TEXT OF ARTICLE 12

Article 12 - Cessation of Cooperation and Right of Return

(1) If either Party at any time following entry into force of this Agreement:

- (A) does not comply with the provisions of Article 5, 6, 7, 8, or 9; or
- (B) terminates, abrogates or materially violates a safeguards agreement with the IAEA;

the other Party shall have the rights to cease further cooperation under this Agreement and to require the return of any material, equipment or components transferred under this Agreement and any special fissionable material produced through their use.

(2) If the Hashemite Kingdom of Jordan at any time following entry into force of this Agreement detonates a nuclear explosive device, the United States of America shall have the same rights as specified in paragraph 1.

(3) If either Party exercises its rights under this Article to require the return of any material, equipment or components, it shall, after removal from the territory of the other Party, reimburse the other Party for the fair market value of such material, equipment or components. Owing to the serious consequences that may result from the potential implementation of the rights provided for in this Article, the Parties shall immediately consult to review the situation, including its nonproliferation implications, and ascertain what measures, if any, may be taken to rectify it.

END CURRENT TEXT OF ARTICLE 12.

17. (C/REL JORDAN) BEGIN PROPOSED MODIFICATION TO ARTICLE 12

Article 12 - Cessation of Cooperation and Right of Return

(1) If either Party at any time following entry into force of this Agreement:

- (A) materially violates the provisions of Article 5, 6, 7, 8, or 9; or
(B) terminates, abrogates or materially violates a safeguards agreement with the IAEA;

the other Party shall have the right to cease further cooperation under this Agreement; to require the return of any material, equipment or components transferred under this Agreement and any special fissionable material produced through their use; and to terminate the Agreement by giving 90 days written notice.

(2) If the Hashemite Kingdom of Jordan at any time following entry into force of this Agreement detonates a nuclear explosive device, the United States of America shall have the same rights as specified in paragraph 1.

(3) If the Hashemite Kingdom of Jordan at any time following entry into force of this Agreement possesses sensitive nuclear facilities within its territory or otherwise engages in activities within its territory relating to enrichment of uranium or reprocessing of nuclear fuel, the United States of America shall have the same rights as specified in paragraph 1.

(4) If either Party exercises its rights under this Article to require the return of any material, equipment or components, it shall promptly, after removal from the territory of the other Party, reimburse the other Party for the fair market value of such material, equipment or components. Owing to the serious consequences that may result from the potential implementation of the rights provided for in this Article, the Parties shall immediately consult to review the situation, including its nonproliferation implications, and ascertain what measures, if any, may be taken to rectify it.

END PROPOSED MODIFICATION TO ARTICLE 12

18. (C/REL JORDAN) BEGIN CURRENT TEXT OF ARTICLE 11

Nothing in this Agreement shall be interpreted as affecting the inalienable rights of the Parties to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with Articles I and II of the NPT and the IAEA Statute.

END CURRENT TEXT OF ARTICLE 11

19. (C/REL JORDAN) BEGIN PROPOSED MODIFICATION TO ARTICLE 11

Article 11 - Use of Nuclear Energy for Peaceful Purposes

Nothing in this Agreement shall be interpreted as affecting the inalienable right of the Parties to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with Articles I and II of the NPT as well as the safeguards required by Article III of the NPT.

END PROPOSED MODIFICATION TO ARTICLE 11

10. (C/REL Jordan) BEGIN CURRENT TEXT OF ARTICLE 9, PARAGRAPH 2

Article 9 - Safeguards

(2) Source or special fissionable material transferred to the Hashemite Kingdom of Jordan pursuant to this Agreement and any source or special fissionable material used in or produced through the use of material, equipment or components so transferred shall be subject to safeguards in accordance with the agreement between the Hashemite Kingdom of Jordan and the IAEA for the application of safeguards in connection with the NPT, signed on December 5, 1974, which entered into

force on February 21, 1978, and the Additional Protocol thereto signed July 28, 1998, which entered into force on that date.

END CURRENT TEXT OF ARTICLE 9, PARAGRAPH 2

¶11. (C/REL JORDAN) BEGIN PROPOSED MODIFICATION TO ARTICLE 9, paragraph 2

Article 9 - Safeguards

(2) Source material or special fissionable material transferred to the Hashemite Kingdom of Jordan pursuant to this Agreement and any source material or special fissionable material used in or produced through the use of material, equipment or components so transferred shall be subject to safeguards in accordance with the agreement between the Hashemite Kingdom of Jordan and the IAEA for the application of safeguards in connection with the NPT, signed on December 5, 1974, which entered into force on February 21, 1978 (but not including the Small Quantities Protocol thereto dated (insert date), and an Additional Protocol thereto signed July 28, 1978, which entered into force on that date.

END PROPOSED MODIFICATION TO ARTICLE 9, PARAGRAPH 2

¶12. (C/REL JORDAN) BEGIN PROPOSED NEW PARAGRAPH TO BE ADDED AT THE BEGINNING OF "SAFEGUARDS" IN AGREED MINUTE

Safeguards

The Parties understand that the safeguards agreement referenced in paragraph 2 of Article 9 of the Agreement refers to such agreement without the existing Small Quantities Protocol. The Government of the Hashemite Kingdom of Jordan will terminate the Protocol prior to the licensing by the Government of the United States of America of exports of nuclear material, equipment, components, or technology pursuant to this Agreement.

END PROPOSED NEW PARAGRAPH TO BE ADDED AT THE BEGINNING OF "SAFEGUARDS" IN AGREED MINUTE

Letter of Assurances

¶13. (S/REL JORDAN) Post is also requested to inquire, at a time it deems appropriate, about the status of the requested letter of nonproliferation assurances (ref A). As evidenced by the concerns raised about the proposed U.S.-UAE agreement, we expect additional scrutiny on the Jordan 123 agreement as it too involves an agreement in the Middle East. Post should stress that in order to prepare the agreement for the anticipated intense Congressional review, it is imperative that Jordan provide us with written assurances from the King or another Jordanian official acting with the express authorization of the King, indicating that Jordan is committed to pursuing a civil nuclear program in a manner consistent with the highest standards of nonproliferation, safety and security and that Jordan will not engage in any form of nuclear cooperation with Pakistan. Having such a commitment is essential in light of reported nuclear cooperation between Jordan and Pakistan. In this respect, Post should continue to encourage the GOJ to be fully transparent in all activities involving nuclear issues and to inform the U.S. of any issues that could potentially be misconstrued by Congress so that we can avoid any unnecessary issues.

POCs and Reporting Deadline

¶14. (U) Post is requested to report the Jordanian reaction as soon as possible after re-engagement on this topic. ISN/NESS John Dooley (DooleyJA@state.gov), ISN/RA Jody Daniel

(DanielJL@state.gov) and NEA/ELA Jordan Desk Officer Meghan Gregonis (GregonisME@state.gov) are the POCs for this issue.
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